

## Enhancing Connecticut Public Safety Through Reform of the Sex Offender Registry

### Summary

The current sex offender registry in Connecticut does not meet its public safety goal of identifying people who pose a significant risk for future sex related crimes. Not all sex offenders pose the same risk of re-offense, and although Connecticut currently has systems in place that make individualized risk assessments of people convicted of sex related offenses, those risk assessments are not reflected in the current sex offender registry.

Of the 5,674 people currently on the sex offender registry, there is no way to identify which registrants pose the greatest risk to the community. By focusing only on those offenders who are at moderate or high risk of committing another sex offense, the registry could be a more useful tool for promoting community safety.

There are additional social harms caused by the over inclusiveness of Connecticut's sex offender registry. All people listed on the registry, regardless of their risk for re-offending, are ineligible for myriad programs and services, ranging from subsidized and public housing, to treatment programs. A person's status on the registry can cause them to not be hired for or to lose a job, or even to be denied admission to a nursing home. Disrupting the stability of low-risk offenders in this way may increase their risk of re-offense. A 2008 report from the Center for Sex Offender Management, a research group funded by the Department of Justice, shows that "stabilization in the community contributes to decreases in re-offense rates."

Our current sex offender registry decreases the ability of low-risk offenders to get treatment, stable housing and employment, and has broader negative societal effects, both for the individuals themselves, and for the society at large.

Models for reform already exist, both in nearby Massachusetts and in other parts of the country, most notably Minnesota, for creating a system that includes the following improvements:

- A system based on the already available individualized risk assessments, that identifies people with the highest risk of committing another sex based offense, and keeps them on the public registry, while putting people with little risk of re-offense on a registry available to law enforcement only, but not to the public;
- A process to petition for removal from the registry that gives registrants the ability to demonstrate rehabilitation and reform, and gives them incentives to comply with treatment.

Reforming Connecticut's sex offender registry to reflect evidence-based risk assessment tools would allow the registry to be a more useful public safety tool and would enable those people currently on the registry who are at low-risk of re-offending to remove the stigma and barriers to stability and regain productive lives.

For more information, contact:

Atty. Amy Eppler-Epstein, New Haven Legal Assistance Assoc., (203) 946-4811; [aeppler-epstein@nhlegal.org](mailto:aeppler-epstein@nhlegal.org)

Kate Robinson, Gallo & Robinson LLC, (860) 247-4322; [Kate@GalloRobinson.com](mailto:Kate@GalloRobinson.com)

Atty. Thomas Ullmann, (203) 503-6818; [Thomas.Ullmann@jud.ct.gov](mailto:Thomas.Ullmann@jud.ct.gov)

Lisa Tepper-Bates, CT Coalition to End Homelessness, (860) 721-7876; [ltbates@cceh.org](mailto:ltbates@cceh.org)

January, 2015

## Overview:

Over the past three decades, both Congress, and state legislatures have developed laws creating sex offender registries that are amongst "the most draconian regime in the world."<sup>1</sup> These laws, usually passed in response to the commission of a heinous and well publicized crime, often "rest on flawed stereotypes, not solid evidence."<sup>2</sup> Throughout the country, there is a growing recognition, from such varied sources as law enforcement, other government agencies, and even victim's groups that originally lobbied for passage of some of the registry laws,<sup>3</sup> that many aspects of the existing sex offender registries are counter-productive. Rather than working to make the public safer, by identifying and making public information about sex offenders who pose a serious risk of future sexual offenses, the registries are overbroad. By including on the registry people who pose little or no risk of future sexual offenses, overbroad registries detract from the ability of both law enforcement and the public to focus attention and resources on those people who pose the greatest risk. At the same time, the many collateral consequences that prevent registrants from gaining stable housing and employment are a harm to both those individuals; and to the larger society's public safety goal, since "stabilization in the community contributes to decreases in re-offense rates."<sup>4</sup>

The push to re-examine Connecticut's sex offender registry is thus made within the context of a growing national recognition that these laws need to be reformed so as to better protect public safety, as well as eliminate the harm they cause to many people swept up in the overbreadth of the laws.

## The Problem

### Statutory framework of CT's Sex Offender Registry

As currently written, CT's statutes creating the sex offender registry (Conn. Gen. Stats. §§ 54-250 to 54-261) provide for a 10-year registry and a lifetime registry. If convicted of any of the range of specified crimes<sup>5</sup>, a person is automatically put on the registry, and the

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<sup>1</sup> See Sex Offender registries, The best ideas of reforming the law, [http://www.slate.com/articles/news\\_and\\_politics/jurisprudence/2014/08/sex\\_offender\\_registries\\_the\\_best\\_ideas\\_for\\_reforming\\_the\\_law.html](http://www.slate.com/articles/news_and_politics/jurisprudence/2014/08/sex_offender_registries_the_best_ideas_for_reforming_the_law.html) The series of 5 articles published in August, 2014 in the Slate on-line magazine are attached in Appendix A.

<sup>2</sup> See Slate series, Appendix A

<sup>3</sup> See Slate: Patty Wetterling, the mother of the child Jacob Wetterling whose well publicized abduction led to the passage of the federal Jacob's law (passed in 1994, to push all states to adopt registries) is now "one of the sharpest and loudest critics of the ballooning use of registries.... She's now asking people to take a second look to see whether laws like the one named for her son are doing more harm than good and should be curbed." Slate, Sex Offender Laws Have Gone Too Far," pp 2-3.

<sup>4</sup> Twenty Strategies for Addressing Sex Offender Management in Your Jurisdiction, 2008 report from the Center for Sex Offender Management, a research group funded by the Department of Justice, [http://www.csom.org/pubs/twenty\\_strategies.pdf](http://www.csom.org/pubs/twenty_strategies.pdf).

<sup>5</sup> People convicted of nonviolent sexual offenses, felonies for a sexual purpose, or of criminal offenses against minor victims are put on the 10-year registry. C.G.S.A. § 54-251(a); 254(a). There is an exception for people who have one or more previous convictions of such an offense or have had sexual

sentencing judge has little discretion as to whether or not to require the person to register. CT's current law provides for only a very few situations in which the court can exempt people from the registry requirements.<sup>6</sup> Additionally, there is no provision for early removal from the registry. Regardless of the circumstances, a lifetime registrant can never be removed from the Connecticut sex offender registry.

Once on the registry, a person must send in an update confirming his or her location and address every 90 days; failure to do so itself constitutes a felony, and subjects the person to arrest. The registry is publicly accessible<sup>7</sup>, and can be searched by address and area as well as by name. The registry provides a photograph, address and information about the offense of which they were convicted for each registrant.

Although not reflected in the statutes, the Department of Emergency Services and Public Protection has access to internal records showing probation and parole status and other background information, well beyond what the public registry that is accessible on the internet. This leaves open the option that one could be removed from the public registry but still remain on an internal police database.

### Overbreadth

Being on the sex offender registry is a stigma that a person carries for life or, in some instances, ten years. Unlike almost any other criminal conviction where, after serving time and completing probation, a person has fulfilled his "debt to society," a person on the sex offender registry continues to pay that debt on a daily basis. People on the registry are ineligible for programs and services, most notably subsidized and public housing.<sup>8</sup> And one's status on the registry can cause a person to not be hired for or lose a job, or even be denied admission to a nursing home.<sup>9</sup> Because of these barriers, a significant number of the people living in homeless shelters are on the sex offender registry.<sup>10</sup>

Because of the breadth of Connecticut's existing statutes, the sex offender registry encompasses people with a wide and varied range of circumstances. Although there are people on the registry who have been convicted of violent sexual offenses, the registry also includes people whose crime was committed decades ago, before any registry existed, with no violent or criminal behavior since; people who engaged in consensual sex with a person

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intercourse with someone under age 13; they must register for life. *Id.* People convicted of sexually violent offenses must register for life. C.G.S.A. § 54-252(a).

<sup>6</sup> A person may apply to be exempted from the Registry under Conn. Gen. Stat. Sec. 54-251 if such person was under age 19 at the time of the offense and the registration is not necessary for public safety; or if convicted under certain statutes (sexual assault fourth degree, and voyeurism) and registration is not required for the public safety.

<sup>7</sup> [http://www.communitynotification.com/cap\\_office\\_disclaimer.php?office=54567](http://www.communitynotification.com/cap_office_disclaimer.php?office=54567)

<sup>8</sup> See, e.g., 42 U.S.C. § 13663; 24 C.F.R. § 960.204 (public housing); 24 C.F.R. 982.553(a)(2)(i) (Section 8), which prohibit admission to federally subsidized housing programs to persons on lifetime sex offender registries.

<sup>9</sup> See Appendix C for stories including job loss due to registry status; nursing home denial is anecdotal evidence from case worker.

<sup>10</sup> See Appendix D for survey August, 2014

under-aged; and people who viewed child pornography on their home computer. It also includes people who can demonstrate successful rehabilitation and reform, but have no opportunity under CT law to petition for removal from the registry. Because the current statutes give no discretion to the sentencing judge, and only very limited abilities to petition for removal from the registry, all these people retain the stigma of being on the registry; and the effects of that status continue to affect their abilities to live and work for the rest of their lives, as well as having a significant effect on their emotional state, leading to depression, stress, isolation and fear.

### The Stories

The following stories of people whose lives are permanently impacted and significantly harmed by their status as a registered sex offender have a common theme: these people do not cause a threat, risk, or harm to society, and they pose no danger to their neighbors or others, but they remain on the lifetime sex offender registry with no prospect of removal. They are stigmatized as violent rapists and pedophiles, and they feel that they are never given the chance to explain their situations. Some of these lifetime registrants pled guilty and were released after serving their prison sentences before the registry even existed in Connecticut. They look back now with great regret, maintaining that they would have risked trial if they knew of the consequences they would later face.

Dwight Dickerson's compelling story is detailed in a recent article in the CT Law Tribune, attached as Appendix B, after his unsuccessful equal protection challenge before the CT Appellate Court. Mr. Dickerson, a victim of childhood sexual assault, has led "a perfect life," since completing his sentence. A "model prisoner" while serving his prison term of two years for second degree sexual assault, he then completed 5 years of probation and 5 years of successful sex offender treatment, obtained a Sociology degree at Yale University, and enrolled in a Masters degree program in Sociology at Southern CT State University, all while working full time at Sikorsky. He plays music in his church band, and started an organization to help formerly incarcerated people be successful. He presents a compelling case for why CT's current registry system needs reform: under our current law, there is no way for him to be removed from this lifetime stigma, which continues to affect his ability to work at the level of his skills and education.

Dennis, a 64 year old man, took a plea agreement on charges of sexual assault first degree in 1987. This was well before the sex offender registry was created, and he had no notion that doing so would cause him to be placed on the lifetime sex offender registry when it was created in 1998. He had contested the charge against him, asserting that it was consensual sex with a woman with whom he was having an affair, who brought charges against him in retaliation for his not wanting to continue his relationship with her. However, he chose to accept a plea agreement rather than risk a trial and a potentially longer sentence. He has had no arrests or convictions for any violent or sex related offenses in the more than 25 years since his conviction. He worked for years as a trucker until suffering a disabling back injury, after which he started receiving social security disability. When his elderly uncle became ill, Dennis moved into his uncle's federally subsidized public housing to care for him, and spent years feeding and bathing him, as well as assisting many of his elderly neighbors.

After his uncle's death, when Dennis tried to take over the apartment lease as a remaining family member, the Housing Authority denied him, citing the federal law that prohibits sex offenders from residing in HUD subsidized housing. The stigma of the registry, and the resulting threat of eviction and homelessness, caused Dennis extreme stress and depression, at one point leading him to admit himself into inpatient psychiatric treatment because he was verging on being suicidal.

Jim<sup>11</sup> is a 36 year old man who was charged following an alleged incident with a female cousin when they were teenagers. He has had no arrest or convictions since then. Although he denied the allegations, he took a plea under the Alford doctrine on the advice of his public defender, rather than risk a trial and going to jail for 30 years. He now regrets that decision, saying that he did not understand sex offender registry ramifications at the time. When he took a job as a driver, he disclosed the (by then very old) criminal conviction to the employer and he was hired regardless. He was a good employee and had no problems on the job. He periodically had to complete and send in a registration form for the sex offender registry. Unfortunately, his registration form ended up arriving late in the mail and a warrant was issued, which led to his arrest that was published in the newspaper. The warrant was resolved as a clerical error, but the damage was already done. His employer fired him because the publication revealed he was on the sex offender registry, which caused a lot of concern at the workplace.

See Appendix C for the stories of other people who would be good candidates for removal from the registry if a process existed to do so.

### CT and Federal Housing and Shelter Programs Prohibiting Participation of Sex Offenders

Many housing and shelter programs explicitly prohibit people on the sex offender registry from participation, and deny eligibility based on being on the registry. All federally subsidized housing programs consider being on the lifetime registry as an explicit and mandatory grounds for denial of eligibility, not subject to appeal or discretion.<sup>12</sup> Connecticut's state housing subsidy programs also deny eligibility to people on the sex offender registry.<sup>13</sup>

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<sup>11</sup> First name changed for anonymity.

<sup>12</sup> See, e.g., 42 U.S.C. § 13663; 24 C.F.R. § 960.204 (public housing); 24 C.F.R. 982.553(a)(2)(i) (Section 8), which prohibit admission to federally subsidized housing programs to persons on lifetime sex offender registries.

<sup>13</sup> Regulations of CT State Agencies, Sec. 17b-812-13. The state regulatory language is permissive, (i.e., "the Department or its agent *may* deny program assistance to an applicant or terminate assistance to a participant for any of the following reasons...(9) a household family member is subject to a registration requirement under a state or federal sex offender registration program") rather than mandating denial as in the federal regulations; but the state has not exercised that discretion to allow a registrant to keep his subsidized housing, even in very sympathetic circumstances. See Shannon v. Klein, Comm. of the CT Dept. of Housing, HHB-CV14-5016034-S (administrative appeal challenging Commissioner Klein's decision to terminate participant from RAP solely for obligation to register arising from March 1997 conviction, after five years of participation, notwithstanding that participant had become legally blind, relies upon a seeing eye dog, and suffers from numerous medical complications requiring regular care and treatment. Termination also ended supportive case management services attendant to RAP participation that had allowed participant to stabilize and maintain his housing.) See

Connecticut's state funded emergency shelters prohibits admission to a family shelter of any person listed on the sex offender registry.<sup>14</sup>

### The Data

Not surprisingly, the exclusion of people on the sex offender registry from so many forms of housing and other assistance leads many people on the registry to be homeless. On a random sampling date, August 3, 2014, the registry data showed that 66 of the 455 people on the Registry in New Haven listed a homeless shelter, or "homeless," as their address. (14.5% of people registered in New Haven were homeless, see Appendix D). The director of the Emergency Shelter Management Services shelter in New Haven estimates that 30% of the 75 nightly residents of his shelter are on the registry. Most of these shelters open in the early evening, and occupants must leave early in the morning, leaving them the full day to try to be in public spaces such as the green, library, train station, coffee shops etc. Clearly, the existing policies not only do a disservice to people released from prison and trying to make positive and constructive futures for themselves, but also do not well serve public safety interests, by both designating such people as dangerous, yet giving them so few other options that many are resigned to living in shelters and on the streets.

### Recidivism

In 2012, the CT Office of Policy and Management released a study of its detailed analysis of sex offenders over a 5 year period following their 2005 release from prison. (Recidivism Among Sex Offenders in CT, Ivan Kuzyk, February 15, 2012, *hereinafter* "Recidivism")<sup>15</sup> See also Vera Institute's summary regarding this report, "Current Thinking, Getting Smarter About Sex Offenders" March 22, 2012, attached as Appendix E. Significantly, the report focused not only on people convicted of sexual offenses, but also included people charged with sex offenses who were ultimately convicted of other charges; and distinguished between re-arrests for sex related offenses, as opposed to re-arrests for other charges. The study found that, contrary to popular conceptions, the recidivism rate for sex crimes was quite low- only 2.7 percent arrested, and 1.7 percent convicted. It also found that the

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also. Conn. Gen. Stat. § 8 – 45a, allowing applicants to state subsidized public housing to be denied based on their status as a registered lifetime sex offender.

<sup>14</sup>Regs. Conn. State Agencies § 17b-800-4(a) An emergency shelter receiving department funding shall adhere to an admissions policy that includes the following requirements:

(1) The shelter shall not discriminate in the acceptance of clients on the basis of race, creed, color, religion, national origin, ancestry, sex, sexual orientation, gender identity or expression, marital status, age or disability and shall not reject clients on the basis of past conduct unconnected to the shelter or shelter program, except that a shelter serving homeless families shall not admit a person who is listed on the registry of sex offenders maintained pursuant to chapter 969 of the Connecticut General Statutes;

<sup>15</sup>[http://www.ct.gov/opm/lib/opm/cjppd/cjresearch/recidivismstudy/sex\\_offender\\_recidivism\\_2012\\_final.pdf](http://www.ct.gov/opm/lib/opm/cjppd/cjresearch/recidivismstudy/sex_offender_recidivism_2012_final.pdf))

Department of Correction's internal and individualized Risk Assessment system was one of the most accurate tools available for predicting risk of recidivism.

As summarized by the Vera Institute:

"Although the Connecticut study reveals recidivism rates for sex crimes that are much lower than what many in the public have been led to expect or believe, it also concluded that some sex offenders pose a high risk for committing new sexual offenses. Sex offenders are not a monolithic group, their level of dangerousness, propensity to offend, and their preferred victims differ significantly. The study found that the Connecticut Department of Correction's Sex Treatment Score was a good predictor of sexual recidivism. Its scoring is based on conviction history, assessment of police reports, pre-sentence investigations, and other information that can provide a more complete and thorough understanding of the nature and context of an offender's crimes."

As stated in the Introduction to the *Recidivism* report,

"At the end of the day, our goal is public safety by reducing the level of recidivism. Based on our analysis, post-release supervision focused on the high-risk sex offenders appears to be a cost-effective strategy to prevent crime." (*Recidivism*, p. 1)

Regarding the sex offender registry, the *Recidivism* report notes that a person's appearance on the registry is not a good or accurate predictor of their dangerousness or likelihood of involvement in a future sex related offense, and notes the ways in which some sex offenders who may pose a risk of a new offense are able to avoid being on the registry, by virtue of negotiated plea agreements:

Offenders who are included on the state's Sex Offender Registry (SOR) appear there because they have been convicted for specific criminal offenses. The impact of the Registry on preventing new sex crimes is unknown. By statute (CGS §§ 54-250-54-261), the Registry, which is maintained by the Department of Emergency Services & Public Protection, does not consider or assess the risk of re-offense for individuals that it lists. Nor does the Department make any determination that an individual included on the Registry is currently dangerous. According to the Department's website, "individuals listed on the registry are included solely by virtue of their conviction record and state law. The Department's main purpose is to make the information more accessible to the public but not to warn about any specific individual threat or risk."

Connecticut does not have a reliable mechanism to distinguish its high-risk sex offender population from the low-risk population on the registry. Although static and dynamic assessments are performed on many sex offenders, this information is not collected and synthesized in a manner that can be used to track or evaluate the quality of the treatment, management and supervision of the state's sex offender population.

In recent years, surrounding states have adopted a tiered registry-system based on assessments of offender risk in addition to conviction histories. Relying solely on

criminal conviction histories does not guarantee that all offenders who pose a risk of committing new sex-related crime are identified and managed appropriately. In the state's criminal justice system, where negotiated plea agreements are the norm, significant numbers of defendants who are charged with sex offenses are able to "plead out" to other, non-sexual charges and thus avoid the SOR requirements. ...

### *Recidivism, 18-19*

While some offenders certainly pose an extremely high risk for committing new offenses, this does not appear to be the case for the majority of offenders. The real challenge for public agencies is to determine the level of risk specific offenders pose to the public.

### *Recidivism, 10*

Not only is a person's appearance on the CT Sex Offender Registry not a good predictor of the person's likelihood to commit a future sex related offense; but the placement of people on the registry may actually serve to make the public *less* safe, because of the ways that being on the registry makes it harder for people to find stable housing and jobs. "Research also demonstrates that stable housing is essential to reintegration into the community for those convicted of sex offenses, and further reduces re-offense rates." McNeal & Warth, "Barred Forever: Seniors, Housing, and Sex Offense Registration," *Kansas Journal of Law and Public Policy*, Vol. XXII: 2 2013, 319; 348-353.

Further, academic research has shown that the registry and community notification do not have a measurable deterrent effect on sex offender recidivism patterns for offenders who are listed.<sup>16</sup>

### Risk Assessment

The report further notes that there exists a requirement within our existing statutes to make individualized risk assessments and assign risk levels.<sup>17</sup> In practice, this provision was

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<sup>16</sup> Sandler, J. C., Freeman, N. J., & Socia, K. M. (2008). Does a watched pot boil? A time series analysis of New York state's sex offender registration and notification law. *Psychology, Public Policy, and Law*, 14(4), 284-302; Schram, D. D., & Milloy, C. D. (1995). *Community notification: A study of offender characteristics and recidivism*. Olympia, WA: Washington Institute for Public Policy; Walker, J. T., Maddan, S., Vásquez, B. E., VanHouten, A. C., & Ervin-McLarty, G. (2005). *The influence of sex offender registration and notification laws in the United States*: Retrieved 11/19/10 from [www.acic.org](http://www.acic.org); Zevitz, R. G. (2006). Sex offender community notification: Its role in recidivism and offender reintegration. *Criminal Justice Studies*, 19(2), 193-208; Zgoba, K., Witt, P., Dalessandro, M., & Veysey, B. (2008). *Megan's Law: Assessing the practical and monetary efficacy*. Washington, DC: National Institute of Justice.

<sup>17</sup> In 2007, the CT Legislature established a Risk Assessment Board (HB 7408) to assign "weights to various risk factors including, but not limited to, the seriousness of the offense, the offender's prior offense history, the offender's characteristics, the availability of community supports, whether the offender has indicated- or credible evidence in the record indicates -that the offender will reoffend if



never effectuated, and the statute to which this report refers was repealed in 2013. See Conn. Gen. Stat. Sec. 54-259(a) Repealed. (2013, P.A. 13-299 § 95, eff. July 1, 2013).

The DOC's Sex Treatment Score mentioned in the *Recidivism* report, is a score that is assigned during intake into a correctional facility. It consists of reviewing the official documentation referenced like PSI's and police reports. It does not include an actuarial risk assessment as is used by Center for Treatment of Problem Sexual Behavior (CTPSB) that utilizes risk assessment tools like the STATIC 2002 among others as well as an in-person interview with the offender. Presumably, this more detailed risk assessment can provide an even more accurate assessment of which sex offenders pose the greatest risk of further sexual offenses.

However, neither of these currently existing individualized risk assessment tools have any relationship to the sex offender registry. The registry includes both people with a high risk of re-offending with a sex related crime; and those with little or no risk. Accordingly, the State's own detailed analysis and assessment makes clear that our existing sex offender registry is neither a good tool for predicting who is likely to cause a threat to the public in the future; or helping the public protect themselves from such threats by identifying the people most likely to pose such a threat, and targeting treatment and oversight to such people. Although giving the appearance of protecting the public safety, the registry does not in reality serve such a purpose; and as discussed above, the harms it inflicts on those persons on the registry cause a great social harm both to those individuals, and to society at large.<sup>18</sup>

### Other States

Every state manages the risk of sex offender recidivism differently. Research suggests that best practice risk management takes into consideration the individual circumstances of every offender, rather than uniformly applying restrictions. Some states, like Vermont, rely on evidence based risk assessment tools to evaluate the risk of recidivism and public safety risk of every sex offender that is released from confinement. Massachusetts and Minnesota also use risk assessment tools to tailor restrictions and punishments. These states rely on risk assessments to determine how much information is released to the public. In both of these states, the police receive information about every sex offender, but the public only has online access to information about those offenders who pose the highest risk.

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released into the community and whether the offender demonstrates a physical condition that minimizes the risk of reoffending, and specifies the risk level to which offenders with various risk assessment scores shall be assigned." *Recidivism*, p. 19

<sup>18</sup> "Given that the registry and community notification appear to impede sex offender reintegration into the community and have a detrimental impact on the lives of sex offenders, these collateral consequences may ultimately hinder this legislation's primary goal of enhancing community safety." Unwillingly Revealed: Registered Sex Offenders' Attitudes Toward the Sex Offender Registry, Wesleyan Honors College Thesis, Darien Tabriz Combs, 2011

The result is that the registry in those states performs a much more meaningful, useful and accurate public safety tool than the registry in CT. As of August, 2014, Connecticut's registry contained 5,682 people, in a state with a population of 3.596 million people. In comparison, the Minnesota registry contained 344 people, in a larger state with a population of 5.420 million people.

Research also suggests that the most effective sex offender management policies take sex offenders' changing circumstances into consideration. States like Massachusetts and Minnesota address this issue by providing mechanisms by which offenders may remove themselves from the register. See Appendix F for more detailed summaries of the sex offender registries in Vermont, Massachusetts, and Minnesota.

### The Proposal

Our legislative proposal has several components:

1. Give discretion to the sentencing judge to decide whether or not the specific facts of the case warrant placement on the sex offender registry; and discretion over length of time placed on registry;
2. Use the existing individualized risk assessment (the Department of Correction's Sex Treatment Score, and the CTPSB assessment) as a tool for evaluating whether or not people should be placed on, or removed from the public Sex Offender Registry, and apply such assessments to all sex offenders at release from incarceration, regardless of whether they are on probation or parole, or have served to end of sentence;
3. People at low risk for re-offense should not be placed on public/internet registry;
4. Create an avenue for people on the registry to petition for removal by filing an application to the Superior Court or other review board. Factors to consider could include: evidence of rehabilitation and/or treatment; evidence that person does not pose a threat to others; hardship to person from being on the registry; criminal record since time of conviction that caused person to be put on the registry; input from the victim, and any other mitigating circumstances.

### Appendices

Appendix A: Slate articles

Appendix B: CT Law Tribune Article

Appendix C: Portraits of some sex offenders

Appendix D: Cross referencing of sex offender registry with homeless shelter addresses

Appendix E: Vera Institute summary of OPM's report

Appendix F: Summary of Massachusetts, Minnesota and Vermont sex offender registry statutes

Appendix G: Proposed Legislation

SEX OFFENDER LAWS HAVE  
GONE TOO FAR

JURISPRUDENCE

THE LAW, LAWYERS, AND THE COURT.

AUG. 11 2014 12:20 PM

# Sex Offender Laws Have Gone Too Far

Our draconian policies about sex offenses reflect our ignorance of them.

By Matt Mellema, Chanakya Sethi, and Jane Shim



Linda Walker, left, and Patty Wetterling at a rally in support of the Children's Safety Act in 2005 on Capitol Hill in Washington. Walker's daughter was kidnapped and murdered in 2003, and Wetterling's son was abducted in 1989 and is still missing.

Photo by Chip Somodevilla/Getty Images

On Oct. 22, 1989, 11-year-old Jacob Wetterling was kidnapped while biking home from a convenience store. A masked gunman approached him, his brother, and a friend, and ordered the three boys off their bikes. After demanding to know their ages, he ordered Jacob's brother and the friend to run into some nearby woods and threatened to

**SEX OFFENDER LAWS HAVE GONE TOO FAR.** The boys ran. By the time they turned around to see what had happened to Jacob, he was gone. Nearly 25 years later, Jacob remains missing, and the identity of his kidnapper is unknown.

"I was a stay-at-home mom," Patty Wetterling, Jacob's mother, recalled over the phone last month. "I knew a lot about parenting, but I knew nothing about sexual abuse of children." Determined to educate herself, Wetterling became "a sponge, trying to learn anything about this problem." Soon, one thing stood out: Minnesota, where Jacob had been kidnapped, did not have a database that might help the police identify a list of potential suspects. Other states, such as California, had been keeping sex offender registries for decades. Wetterling also learned that Congress had never tried to craft a national approach to sex offender registration. She was determined to change that.

The result of her efforts was the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, signed by President Bill Clinton in 1994. Jacob's Law used federal dollars to push every state to create a registry. It worked. Today, all 50 states and Washington, D.C., have them. Since then, Congress has also passed several related pieces of legislation, including two major statutes. Megan's Law, enacted in 1996, required that the police give the public access to some sex offender registry data, such as an offender's name, photograph, and address. In 2006, the Sex Offender Registration and Notification Act toughened the standards for who must register and for how long, and it upped the consequences of registration by requiring, for example, periodic in-person visits to police.

The upshot, experts say, is that the United States has the most draconian sex registration laws in the world. As a result, the number of registrants across the nation has swelled—doubling and then doubling again to 750,000—in the two decades since Jacob's Law passed, according to data collected by the Center for Missing and Exploited Children.

**Jacob's case and others like it were terrible exceptions, not the norm.**

Is the American approach to sex registration working? Who goes on the registries, for how long, and for what kinds of crimes? Do the answers suggest that they are helping to keep kids safe—or sweeping in too many people and stoking irrational fears?

In seeking answers to those questions, over the last several months, we were surprised to find that one of the sharpest—and loudest—critics of the ballooning use of registries is Patty Wetterling. "These registries were a well-intentioned tool to help law enforcement find children more quickly," she told us. "But the world has changed since then." What's changed, Wetterling says, is what science can tell us about the nature of sex offenders.

**SEX OFFENDER LAWS HAVE GONE TOO FAR** The push for registries rested on what seem like common sense assumptions. Among the most prominent were, first, sex offenders were believed to be at a

high risk for reoffending—once a sex offender, always a sex offender. Second, It was thought that sex offenses against children were commonly committed by strangers. Taken together, the point was that If the police had a list, and the public could access it, children would be safer.

The problem, however, is that a mass of empirical research conducted since the passage of Jacob's Law has cast increasing doubt on all of those premises. For starters, "the assumption that sex offenders are at high risk of recidivism has always been false and continues to be false," said Melissa Hamilton, an expert at the University of Houston Law Center, pointing to multiple studies over the years. "It's a myth."

Remarkably, while polls show the public thinks a majority, if not most, sex offenders will commit multiple sex crimes, most studies, including one by the Department of Justice, place the sexual recidivism rate between 3 and 14 percent in the several years immediately following release, with those numbers falling further over time. Which number experts prefer within that range depends on how they define recidivism. If you count arrests as well as convictions, for example, the rate is higher, because not all arrests lead to convictions. And if you distinguish among sex offenders based on risk factors, such as offender age, degree of sexual deviance, criminal history, and victim preferences—instead of looking at them as a homogenous group—you may find a higher or lower rate. Rapists and pedophiles who molest boys, for example, are generally found to have the highest recidivism rates. Nevertheless, the bottom line is clear: Recidivism rates are lower than commonly believed.

And in contradiction of the drive to crack down after a random act of sexual violence committed by a stranger, the data also shows that the vast majority of sex offenses are committed by someone known to the victim, such as a family member. In the case of child victims, that number climbs closer to 93 percent. In other words, Jacob's case and others like it were terrible exceptions, not the norm. And yet, "It's become a part of our culture that there are predators waiting around corners," Hamilton said.

## Top Comment

A lot of people post here with a premise that completely ignores the point of this article and the research it cites. [More...](#)

-DaPersonEh?

Wetterling remembers watching this spiral of fear after Jacob's disappearance. "The fear was real. It was devastating," she said. "People became absolutely terrified. There were people in my community who wouldn't let their children bike anymore or play in the park." Twenty years on, she has come to see this reaction as "not information-based." And two decades after she succeeded in persuading Congress to pass Jacob's Law,

550 Comments

Join In

**SEX OFFENDER LAWS HAVE GONE TOO FAR** take a second look to see whether laws like the one named for her son are doing more harm than good and should be curbed.

Looking for data to explore this issue, we found that the best sources were Human Rights Watch, the American Bar Association, and the Government Accountability Office. Most of the data we're using is culled from their reports. In a series for **Slate**, we'll spotlight three areas in which the growth of registries has been unexpected—and, we suggest, unwise:

- **Outlier offences.** These are crimes far removed from the violent felonies that Jacob's Law focused on, but which now trigger registration in many states. (Even public urination now qualifies.)
- **The expanded duration of registration.** States are keeping people on longer and erecting more barriers to getting removed from the list, even if one poses a low risk of reoffending.
- **Collateral consequences.** The range of restrictions attached to being identified as a sex offender has also grown. (In one state, you can't be a sport fishing guide.)

On Friday, we'll wrap up with a look at what could be done—and what lawmakers in some states have tried to do—to make registries smarter and better.

**Read the second, third, fourth, and fifth parts of this series on sex offender laws.**

#### NEWS & POLITICS

##### THE SLATE QUIZ

OCT. 24 2014 12:10 AM

### Play the *Slate* News Quiz

With *Jeopardy!* superchampion Ken Jennings.

*Ken Jennings*

**Michael Brown's Autopsy Results Won't Solve Ferguson's Tragedy**

#### SLATE PLUS

##### SLATE PICKS

OCT. 24 2014 9:46 AM

### What Happened at *Slate* This Week?

Staff writer Aisha Harris shares what stories intrigued her at the magazine this week.

*Aisha Harris*

# The Ridiculous Laws That Put People on the Sex Offender List

Three maps show states that register people as sex offenders for consensual teenage sex, peeing in public, and prostitution.

By Chanakya Sethi

**O**n his 18<sup>th</sup> birthday, Virgil McCranie and his 14-year-old girlfriend of one year, Misty, decided to have sex. Because of their ages, that meant McCranie committed the crime of statutory rape. When Misty told her father months later, after finding out that McCranie had cheated on her, he went to the police. In 1994, McCranie struck a deal with prosecutors, pleading no contest to lewd and lascivious behavior. He avoided prison, but as part of the deal, he had to register as a sex offender.

In time, Virgil and Misty reconciled, eventually got married, and began raising four children together. "It was a mistake, it happened, I've been with her since, I've loved her before then," he told a local news channel 14 years later.

At that moment, McCranie was still a registered sex offender. He says that he lost 17 jobs because of his status. Worse, he couldn't attend his sons' games and his daughter's dance recitals. "I wish I could take it back," Misty told the *Florida Sun-Sentinel*. "Once we got back together I realized how detrimental it was to him."

In the end, McCranie was one of the lucky ones. He applied to then-Florida Gov. **Advertisement** Charlie Crist for a pardon and received one. Others like him, however, remain on the registries. In at least 29 states—from Alabama to Wisconsin—consensual sex between teenagers is a crime that can lead to sex offender status. "No group is out there saying that they want Romeo and Juliet to be on the registry," Brenda Jones, executive director of Reform Sex Offender Laws, a volunteer advocacy group, told me. "But lawmakers aren't paying attention, and we as constituents are not aware."

## Top Comment

Lazy legislators are called to put laws on the books to combat this or the other problem and, being lazy and what not, they throw out all common sense and just go "nuclear". [More...](#)

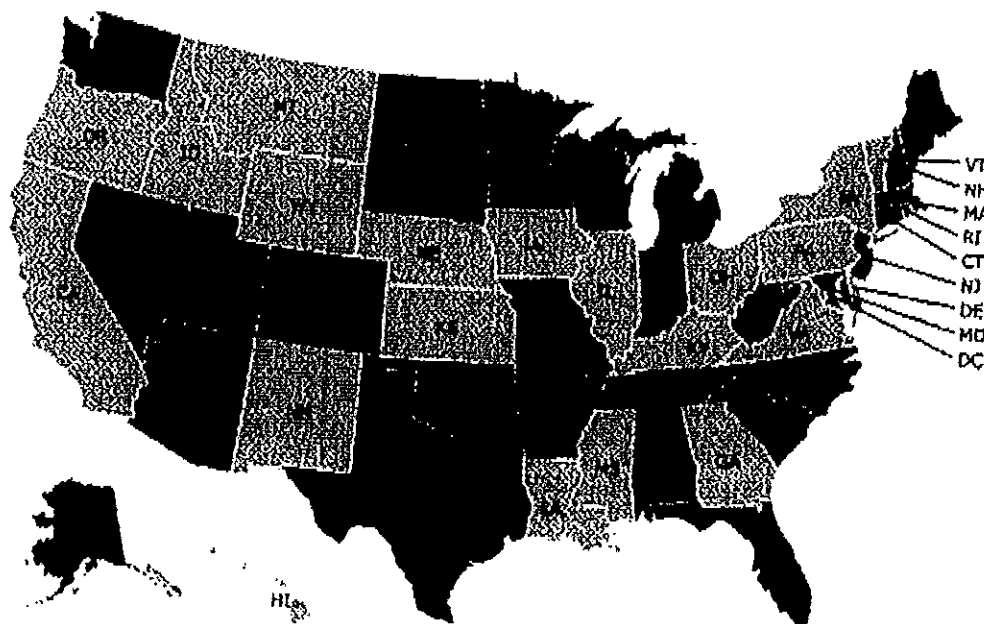
-Caroline Nees

264 Comments

Join In

One possible reason for the long list of registry-worthy crimes is plea bargains like McCranle's. Lawmakers may be ensuring that sex offenders won't escape registration by pleading to lower-level offenses. But at what cost?

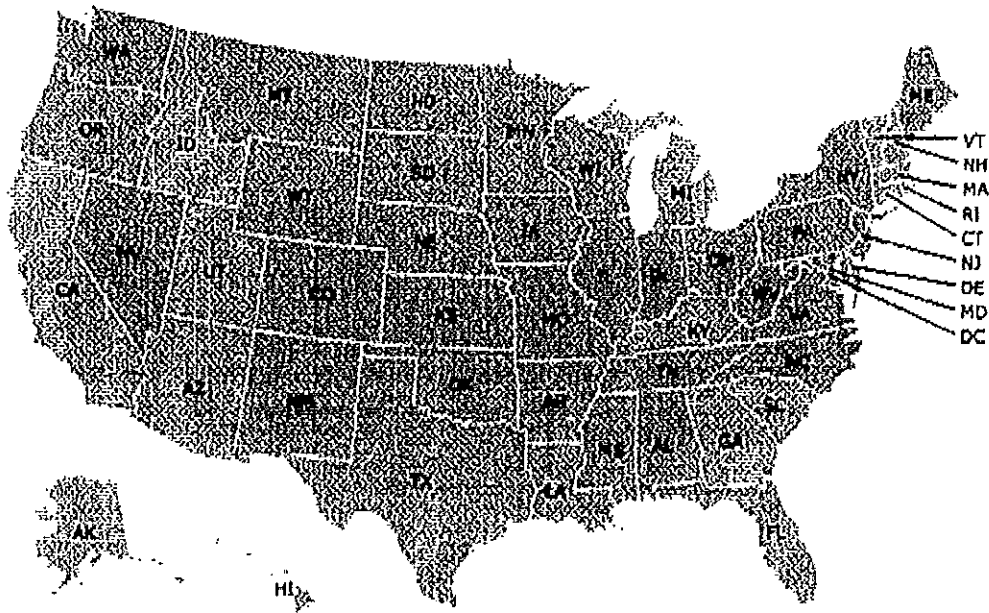
As you can see in the maps below, consensual sex between teenagers is just one of several crimes far removed from violent felonies that can land one on a sex offender registry. Kansas and at least five other states require registration for some prostitution-related offences, such as solicitation or running a brothel. In Michigan and at least 11 other states, urinating in public is.\*



■ Underage teenagers can be put on the sex offender list for having consensual sex.

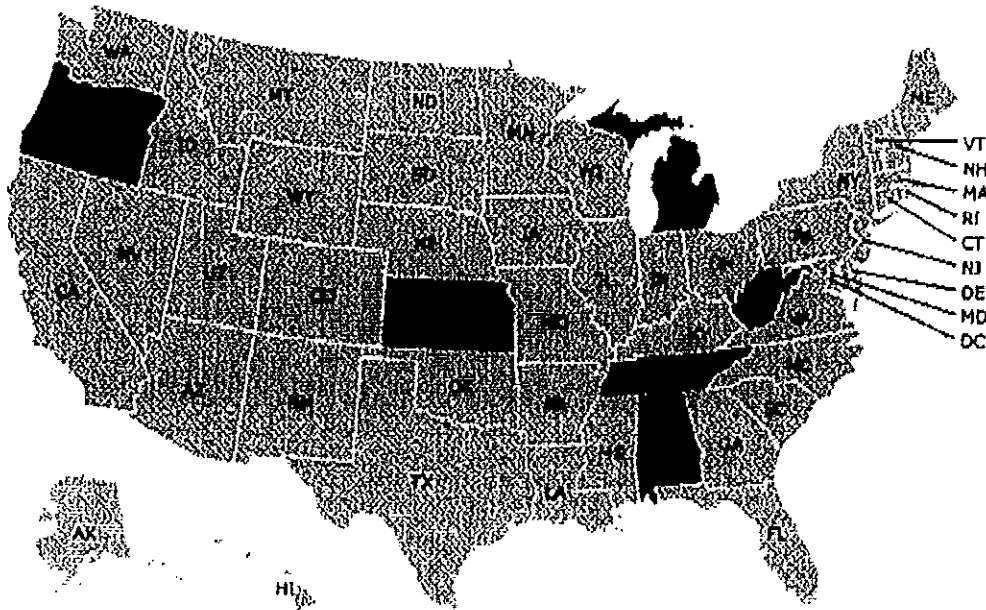
Sources: Human Rights Watch, Washington College of Law





■ People can be put on the sex offender list for peeing in public.

Source: Human Rights Watch



■ People can be put on the sex offender list for prostitution-related offenses, such as soliciting prostitution or running a brothel.

Sources: Human Rights Watch, Department of Justice  
Maps by Chris Kirk

**Read the first, third, fourth, and fifth parts of this series on sex offender laws.**

**Update, Aug. 13, 2014:** This article has been updated to clarify that at least 29 states, not only 29, may require registration on sex offender lists for consensual sex between teenagers; at least six states, not only six, may require registration for some prostitution-related offences; and at least 12 states, not only 12, require registration for urinating in public.

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*Aisha Harris*

*Slate's* Working Podcast, Episode 2 Transcript: On Being a Doctor When Your Patients Are Poor

*Slate's* Walking Dead Podcast: Listen to Slate-sters Recap Episodes 1 and 2

What David Plotz Learned From His Podcast Series on Working

JURISPRUDENCE

THE LAW, LAWYERS, AND THE COURT.

AUG. 13 2014 6:44 AM

# Listed for Life

In some states, people face a lifetime of restrictions for nonviolent offenses committed decades ago.

By Jane Shlm

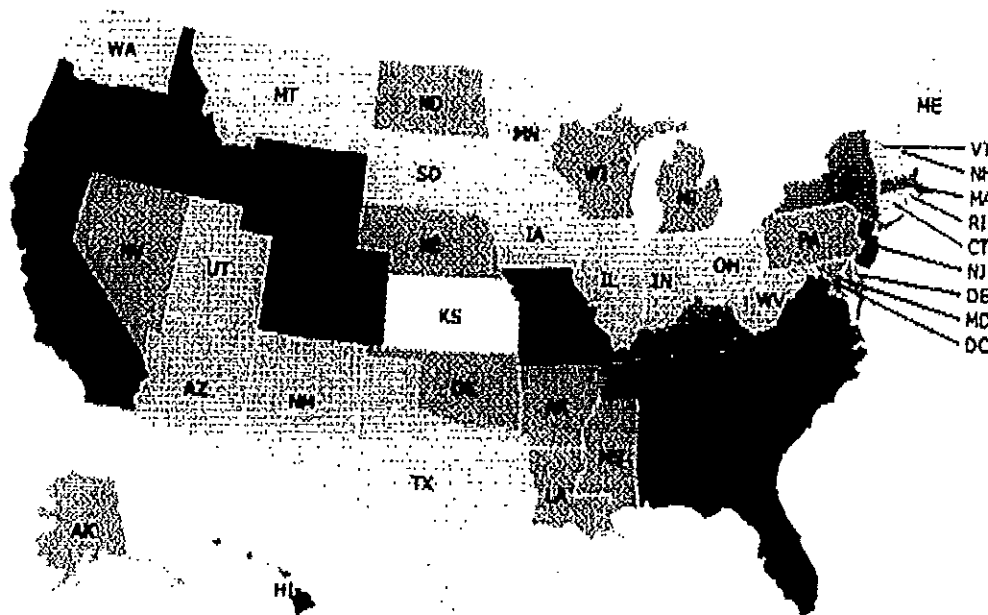
**I**f you've ever accessed a state sex offender registry online, you know you can search for a list of the mug shots, home addresses, and registered vehicles of the offenders residing in your neighborhood. From the point of view of an offender, there's a lot more to being on the list than showing up in offender searches. Once a person is in the registry, he or she faces a thicket of reporting requirements lasting anywhere from five years to a lifetime.

In many states, sex offenders must report their place of employment or schooling, which may then be listed online alongside their home address. They must regularly check in with law enforcement. If they're convicted of a less serious crime—indecent exposure, for example—usually they only have to make an annual visit to a police station. But more serious crimes may require a check-in every three months.

If a registered sex offender moves to another state, he or she must provide written notice of relocation to local police within a narrow window of time. If you move to Maine, for example, you have just 24 hours after moving to notify law enforcement of your relocation and new address. Offenders who are homeless in Kansas must report to local law enforcement every three days. In Indiana, it's every seven days.

How long you have to register for, and how difficult it is to get off the registry, varies greatly by state, as you can see from the map below. At the stricter end of the spectrum: All sex offenders in California and South Carolina must comply with registration requirements for life, regardless of the crimes committed. Compare this with the rules in Utah, where many offenders are removed from the registry after just 10 years.

Usually, the more serious the crime, the longer the registration period. Take Missouri. If you're under 21 and convicted of having consensual sex with someone older than 14, you benefit from a special "Romeo and Juliet" exception that allows you to petition for removal after two years. But if you're 21 or older and convicted of having sex with a 16-year-old, you can petition only after 10 years. Most other sex crimes in Missouri carry lifetime registration requirements.



Minimum registration duration for sex offenders

5 years 10 years 15 years 20 years 25 years  
30 years Life

Source: Washington College of Law at American University

**Read the first, second, fourth, and fifth parts of this series on sex offender laws.**

**\*Correction, Aug. 13:** Due a production error, the map of minimum registration duration for sex offenders originally misstated that Hawaii's minimum duration is five years and Ohio's is 10. The minimum registration duration is life in Hawaii and 15 years in Ohio.

**Update, Aug. 13:** This map reflects the default minimum registration requirement for sex offenders in each state. In some states, however, certain offenders may petition for removal from the registry after a shorter period of time. See above for an example of how the petition process works in Missouri.

## NEWS & POLITICS

THE SLATE QUIZ

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SLATE PICKS

What does petitioning to get off a registry entail? That also varies. First, sex offenders have to figure out whether they're eligible to file such a petition, which likely requires help from a lawyer. In Colorado, offenders file a petition in court and go to their assigned hearing, where a judge decides whether or not they should be removed. In New York, once a registered offender files a petition, the judge forwards it to a five-person Board of Examiners of Sex Offenders, appointed by the governor. The board issues a recommendation on the petition, which goes back to the judge, who then decides whether or not registrants are likely to reoffend, based on evidence about their criminal record and any treatment they've received.

The petition process involves filing fees and potential legal fees. In Alabama, offenders have to pay a \$200 filing fee, which cannot be waived for lack of funds. They may need a lawyer if they move from the state where they were convicted to a new state, where sex offenses might have different legal names and different registration requirements. The legal issues are sufficiently complex that some states, like New York, provide a right to counsel for an appeal of a sex offender registration requirement.

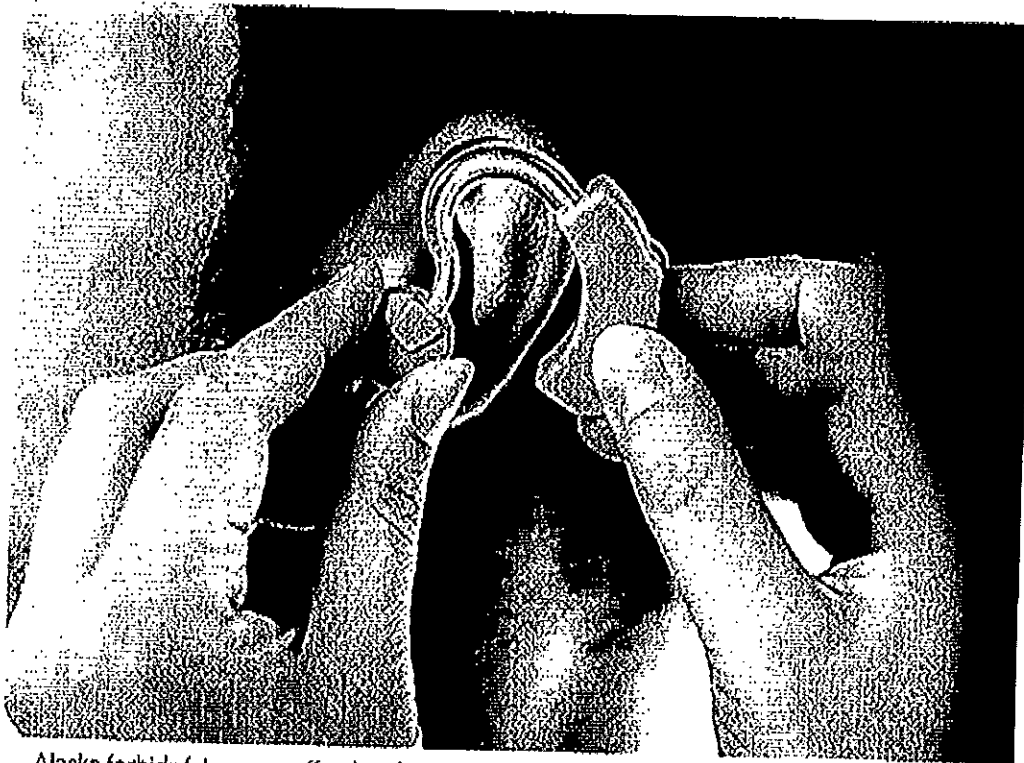
Fifteen states have no process at all for petitioning to be removed from the registry. This could change in some places, though. In California, a lifetime-registration state, the Sex Offender Management Board recently proposed introducing a petition process that would take into account the type of crime committed and the risk of reoffending. This means that low-level offenders—say, people who exposed their genitals in public—might have an opportunity to remove their personal information from the registry, where they are currently listed alongside repeat violent offenders.

In many states, failure to meet registration requirements is a felony, and jeopardizes an offender's chances of getting off the registry. A man in Mississippi was recently found guilty of violating his registration requirements because he unknowingly registered an address that was too close to a school. In Chicago, sex offenders have been arrested for failing to register, even though busy law enforcement offices actually turned them away. It all adds up to a system with little room for mercy.

# Not Wanted: Sex Offenders

Several states ban people in the registry from a bizarre list of jobs.

By Matt Mellema



Alaska forbids felony sex offenders from being hearing aid dealers within five years of an offense.

Photo illustration by Slate. Photo by iStock/Thinkstock.

Depending on where you live, committing a sex offense can trigger any number of sanctions and restrictions in addition to prison time and probation. To get a handle of these consequences, we searched the American Bar Association's **National Inventory of Collateral Consequences of Conviction** for all the punishments for sex offenses.

Many of the penalties make sense. For instance, almost every state restricts sex offenders from working with vulnerable people such as children and the elderly. It's easy to see why legislators would be wary of a sex offender working as a janitor in an elementary school, or a nurse in a retirement home.

Other penalties range a bit further afield. For instance, Massachusetts forbids sex offenders from being ice cream truck vendors. Maybe legislators imagine the drivers tossing their child customers in the back of the trucks and speeding away. Delaware doesn't allow felony sex offenders to be plumbers. OK, showing caution about giving, say, a rapist free access to someone's house is defensible.

But then there's the chaotic mess of penalties that just seem crazy and random, Advertisement as the quiz below is meant to illustrate. Examples: Alaska forbids felony sex offenders from being hearing aid dealers within five years of an offense. In Kentucky, for 10 years after a felony sex offense, an offender can't be a land surveyor. And for certain sexual offenses, New Hampshire forbids working at an "end stage renal disease dialysis center." Why those industries in particular? We're not sure. Tell us if you have an idea.

NOT WANTED: SEX OFFENDERS

TITLE →

## Not Wanted: Sex Offenders

In different states, people are banned from a variety of occupations for offenses as innocuous as public urination or streaking. With this quiz, explore some of the strangest vocational penalties.

Interactive by Chris Kirk.

**Read the first, second, third, and fifth parts of this series on sex offender laws.**

NEWS & POLITICS

THE SLATE QUIZ

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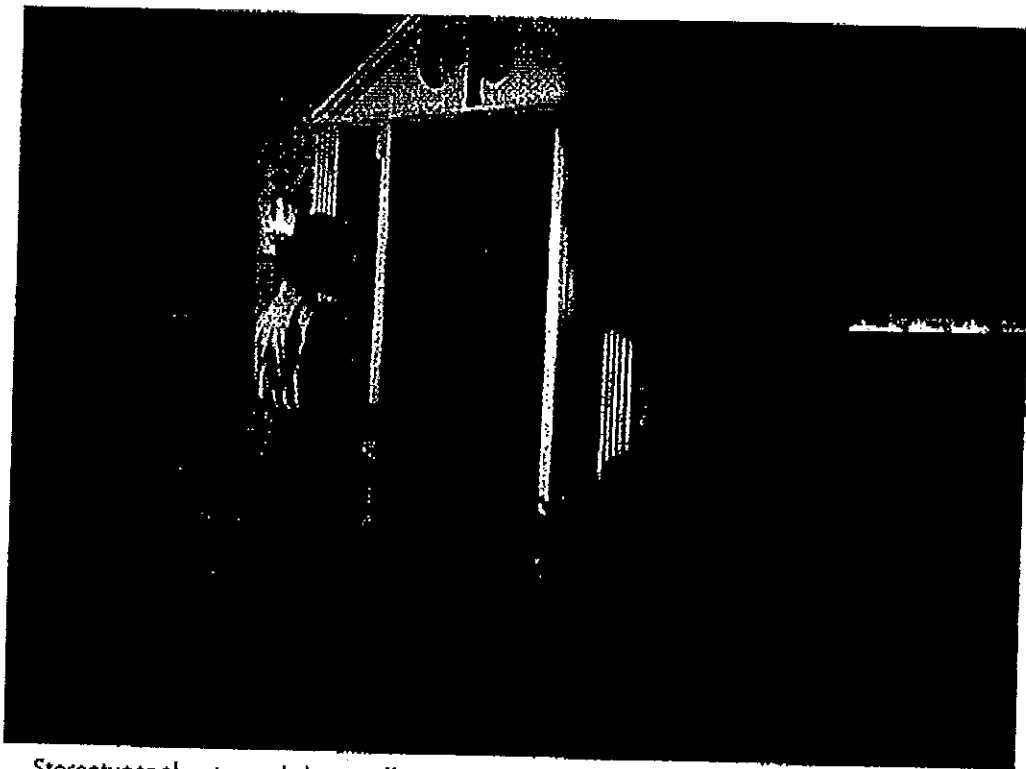
THE LAW, LAWYERS, AND THE COURT,

AUG. 15 2014 7:14 AM

# Reforming the Registry

The best ideas for fixing sex offender laws.

By Chanakya Sethi



Stereotypes about people in sex offender registries might finally be starting to release their stranglehold on public policy.

Photo by Comstock/Thinkstock

**S**ince 1994, when Congress first ordered states to create sex offender registries, the laws in the United States about sex crimes have steadily ratcheted up. We now have what experts say is the most draconian regime in the world. As we've tried to show in *Slate* this week, legislators have repeatedly expanded the definition of a sex offender, extended the periods of time for which offenders must register, and toughened the consequences of registration. And they have done all this even though these laws rest on flawed stereotypes, not solid evidence.



Now, some parts of government—including law enforcement—are starting to urge change. A report by the Council of State Governments, a nonpartisan organization funded in part by the states, noted that “common myths about sex offenders continue to influence laws.” The report concluded that “there is little empirical proof that sex offender registries and notification make communities safer.” The California Sex Offender Management Board, which includes a district attorney, police officers, and corrections officials, went even further earlier this year, saying that “the registry has, in some ways, become counterproductive to improving public safety.” The board called for “overhauling” the system to treat varying groups of sex offenders differently, based on their risks of reoffending. “When everyone is viewed as posing a significant risk, the ability for law enforcement and the community to differentiate between who is truly high risk and more likely to reoffend becomes impossible,” the board said.

Yet, despite these inroads, the political will to rein in sex offender registries is rare, if not absent. For example, the 1,500-plus sex offender bills introduced by state legislators in 2007 and 2008 reflected a “clear trend” toward harsher penalties, according to another report by the Council of State Governments. Efforts in the opposite direction have often been doomed. Take Missouri. State lawmakers passed a bill to remove juvenile offenders (those who committed sex offenses when they were 18 or younger) from the state registry’s website and to allow them to petition for removal from police department sex offender lists. Remarkably, the bill passed 153-0 in the state House and 28-4 in the Senate. And then Gov. Jay Nixon vetoed it. “The leadership of the House may be ready to help violent sex offenders hide from the public and law enforcement, but their victims, and the millions of Missourians who use these websites to help keep their families safe, are not,” he said.

**“These are human beings who made a mistake. If we want them to succeed, we’re going to need to build a place for integrating them into our culture.”**

To reformers, the failure to pass meaningful reforms shows how hard it remains for lawmakers to resist public demands to crack down on a group that is simply reviled. “We want to vilify these people, because they’re easy to hate,” Patty Wetterling, whose son Jacob was kidnapped at age 11 and remains missing nearly 25 years later, told me in an interview last month. Media coverage still fuels this impulse. “High-profile cases involving sex offenders continue to dominate the news” and “understandably shape the public perception of sex offenders,” according to the Council of State Governments report. The result, the report concluded, is that “lawmakers face an arduous task” if they try to push smarter, not tougher, policies. Another report from the

Patty Wetterling

Center for Sex Offender Management, a research group funded by the U.S. Department of Justice, also concluded that public perceptions "pose a significant challenge."

In California, no legislator has yet introduced a bill to implement the state board recommendations I mentioned above. For example, while California now requires lifetime registration for all offenders—regardless of the risk they pose—the board called for restricting lifetime registration to high-risk groups such as sexually violent predators, kidnappers, and repeat offenders. Nonviolent offenders would be subject to a 10-year registration requirement, absent individualized factors that make them appear higher risk. In an email to me, Brenda Crowding, an official with the board, tried to sound sanguine about the lack of progress: "The Board is aware that evidenced-based, research-driven policy recommendations which change long established practice and legislation take time."

It's important to remember that *failing* to categorize offenders based on risk has consequences. When everyone is treated the same way, the system is inevitably overburdened—and dangerous offenders slip through the cracks. Jaycee Dugard, for example, was kidnapped at age 11 and held captive by a registered sex offender for 18 years in the face of multiple lapses in California's registration system. "The police were so exhausted that really all they could do was take a look in the doorway when this woman was held captive since she was 11 in the backyard," Nicole Pittman, an expert at the National Council on Crime and Delinquency, told me. California ultimately paid Dugard and her family \$20 million to settle claims that state authorities had failed to adequately supervise her kidnapper.

Abandoning the one-size-fits-all approach to offenders is just a first step toward broader reform. The Center for Sex Offender Management, the research group funded by the Department of Justice, has identified 20 best practices, including better treatment programs, more housing options upon release from prison, and distinct strategies for dealing with juvenile offenders. These ideas are actually grounded in science. The report cited research showing that treatment "is associated with reduced recidivism among sex offenders," which is why ensuring its ability is vital to improving public safety. Similarly, the research demonstrated that "stabilization in the community contributes to decreases in reoffense rates." And yet laws restricting where sex offenders can live have swept the nation in recent years, leaving homeless offenders to live under bridges. Finally, treating juvenile offenders the same as adults "has not been found to increase public safety, and it comes with potential unintended consequences, such as social and peer rejection, disruption in the development of a healthy identity, and other barriers to adjustment and stability."

Beyond the policy changes, however, Wetterling also sees a need for something else, something more fundamental. "These are human beings who made a mistake. If we want them to succeed, we're going to need to build a place for integrating them into our culture," she told me. "Right now, you couldn't walk into a church or community meeting and say, 'I was a sex offender, but I've gone through treatment. I now have this lovely family, and I am so grateful to be a part of this community.' There is no place for success stories. Nobody believes them."

Brenda Jones, executive director of **Reform Sex Offender Laws**, a volunteer advocacy group, understands the need for these changes firsthand. She has a family member who was convicted of possessing and distributing child pornography in 2009. He was sentenced to 10 years in federal prison and, once released, will likely have to register as a sex offender for 25 years. Looking ahead to his release, "I worry the most about will he find a place to feel accepted and stable, and will he will be able to maintain the medical and the mental health support that he has now in prison?" Jones told me. "Will he have any kind of quality of life? That's what I'm fighting for."

#### NEWS & POLITICS

##### THE SLATE QUIZ

OCT. 24 2014 12:10 AM

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With *Jeopardy!* superchampion Ken Jennings.

*Ken Jennings*

**Michael Brown's Autopsy Results  
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##### TV CLUB

OCT. 24 2014 10:20 AM

### The American Horror Story: Freak Show Podcast, Episode 3

The "Edward Mordrake (Part 1)"  
edition.

*J. Bryan Lowder and Willa Paskin*

## Sex Offender Stuck on Registry

Despite 'perfect life,' court rejects Yale grad's bid for removal

CHRISTIAN NOLAN, The Connecticut Law Tribune

August 6, 2014



Max Simmons

Dwight Dickerson attended Yale University, earning his degree the same time he was working full time at Sikorsky Aircraft Corp. He supported two children in the process.

Despite those achievements, Dickerson carries a stigma. He's a registered sex offender, stemming from a 1994 second-degree sexual assault conviction. In an attempt to free himself from the state's registry, he took his case to the state Appellate Court. In a decision released in July, the judges ruled that Dickerson must remain a registered sex offender for the rest of his life.

Dickerson's lawyer says his client's status stops him from obtaining jobs commensurate with his Ivy League education.

"We're seeing some of the long-term effects of a lot of these sex offender laws that were put into effect by the Legislature a number of years ago," said Dickerson's appellate lawyer, Max Simmons, of the Law Offices of Polan and Simmons in New Haven. "Now the consequences of those are becoming more apparent, at the same time the benefit of those laws to the public is becoming less obvious."

In 1991, Dickerson, while working as a nighttime counselor at a Department of Mental Retardation facility, was accused of performing oral sex on a female patient. The state's first attempt at a conviction resulted in a mistrial. The following year, Dickerson was arrested again, this time for two counts of fourth-degree sexual assault for massaging two adult females at a mental health facility.

Simmons, who asserts that Dickerson was sexually molested as a child by a family member, said his client acknowledged he had problems with appropriate boundaries and pleaded guilty in 1994 to all three charges.

Dickerson was sentenced to four years in prison, but was released after two. He was by all accounts a model inmate, taking sex offender classes, a life-planning course and religion courses. He even took two classes offered by Asnuntuck Community College in Enfield, and taught a math course at Osborn Correctional Institution.

Dickerson then completed five years of probation and five years of sex offender treatment. From 1997 to 2003, he worked as a machinist at a number of companies. In 2003, he joined Sikorsky Aircraft as a multimachine specialist; in 2009, he became a final assembly mechanical inspector, inspecting helicopters before they are delivered to military or civilian customers. He has had no disciplinary issues at work and has been highly recommended by his supervisor, according to Simmons.

In January 2004, he began taking classes at Albertus Magnus College in New Haven, where he had a 3.7 GPA. In 2005, he became a nondegree student at Yale. After one year, he was admitted to the sociology degree program. He attended Yale while working full time at Sikorsky.

In the fall of 2011, Dickerson began a master's program in sociology at Southern Connecticut State University while continuing to work full time. He also plays keyboards and trumpet in his church's band and is an active musician in the community, giving volunteer performances at Emergency Shelter Management Services in New Haven and at the Seacrest Retirement Center in West Haven.

Dickerson is also the founder and CEO of Tri-Cord, an organization dedicated to providing tools to formerly incarcerated people to help them become successful. He does motivational speaking based on his own challenges and successes.

In short, said his lawyer, Dickerson has lived "a perfect life" since his conviction.

In 2012, Dickerson asked a Superior Court judge for an exemption from the sex offender registry, but the judge denied the motion. So Simmons appealed to the Appellate Court.

Simmons explained that second-degree sexual assault is a charge brought against those who use violence in their attacks, whose victims were minors and who assault people with mental disabilities, as was the case with Dickerson.

While violent offenders must register as sex offenders for life, those committing crimes against minors stay on the registry for only 10 years. Simmons said it's unfair for his client to be lumped in with the violent offenders when he committed no violent acts during his sexual misdeeds. "That was the thrust of our argument that Mr. Dickerson was being treated as a violent offender even though he wasn't a violent offender," said Simmons.

The sex offense registry was launched in 1994. But it wasn't until 1999 that lifetime registration requirements were required of those with second-degree assault convictions. The law was enacted so as to retroactively include past offenders. Simmons notes that at the time his client pleaded guilty, there was no lifetime registration requirement.

The state Appellate Court ultimately upheld the lower court's ruling.

"Requiring lifetime sex offender registration for those who have been convicted of violent second-degree sexual assaults is rationally related to the government's legitimate interest in protecting the public from sex offenders whose actions demonstrate a willingness to use force or the threat of force to overcome the will of victims who have not expressed consent to engage in sexual intercourse—and in this case, a victim who was not even capable of expressing such consent by reason of mental defect," wrote Appellate Judge Michael Sheldon.

Simmons said his client was disappointed with the decision but not particularly surprised. "He's been struggling with this issue for so long he may be at a point where he's just going to make the best of the cards that he's been dealt," said Simmons.

Simmons believes lawmakers should revisit the issue and create a process—perhaps one that includes some sort of judicial review—that would allow those on the sex offender registry to ask that their names be removed. "There needs to be a legislative resolution to this," said Simmons, "but no elected official wants to be seen as soft on crime, much less coddling to sex offenders." •

Companies, agencies mentioned: Tri-Cord | Yale | Seacrest Retirement Center | Emergency Shelter Management Services | Osborn Correctional Institution | Asnuntuck Community College | Department of Mental Retardation | Appellate Court | Superior Court | Sikorsky Aircraft Inc. | Southern Connecticut State University | Ivy League | Yale University | Albertus Magnus College

Filed Under: Appellate Law - Civil, Criminal Law

## APPENDIX C

Frank<sup>1</sup>

### Introduction

Frank is a fifty-six year old man on the lifetime sex offender registry. He has a number of health problems. He walks with a cane and suffers from depression. He is also a cancer survivor; he underwent successful treatment for prostate cancer in 2008. In 2011, he successfully applied for SSI benefits. Frank is unemployed and pays for his room in a men's housing facility with his SSI.

Frank has a history of drug abuse, mental health problems, and robbery convictions. He says that he lived a very "fast" life but that "was a long time ago" and he lives much differently now. His days are very routine, he says. Frank tends to go out during the day to socialize and read at the public library. He then returns home around 4-5 PM every day and keeps to himself. He will occasionally travel out of state to visit his three adult daughters, all of whom "are successful and have made something of themselves," he says proudly. Frank says he is very careful about his comings and going because he feels like he has a "bull's eye" on his back because of his sex offender status.

### Sexual Offense

Frank was convicted of sexual assault in the first degree in 1992. In 1988 he was serving the first year of a six year burglary sentence when his cellmate accused Frank of sexually assaulting him. Frank disputes this claim. He says that his cellmate could not identify him in a lineup, even though they had been cellmates and former coworkers. This is especially upsetting to Frank. "If I done something as bad as you say I done, you wouldn't forget my face for the rest of your life." He says that the only reason that his accuser identified him in court was because he was "the only black face in there." Frank believes that race played a large part in his conviction. Not one of the jurors was black, and he felt like he had a big "target on his back."

In 1993 his conviction was overturned. Frank does not remember why, but he thinks that it has something to do with prosecutor misconduct. *Frank was so afraid of another unfair jury trial that he accepted a plea bargain.* In exchange for pleading guilty, Frank was released for time served.

When Frank pled guilty, there was no sex offender registry in Connecticut. Frank was placed on the registry retroactively and without his knowledge. Consequently, he wasn't aware of the restrictions that the registry placed on his movement. Frank is extremely angry that he is on the registry. He says that it is "double jeopardy." And *even if "some court" says that the registry isn't punishment, "common sense tells you it is."*

### Challenges Due to the Registry

Frank says that his status as a sex offender has made his life extremely difficult. He has experienced long periods of unemployment because his status made him an unattractive

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<sup>1</sup> Name changed for anonymity.

## APPENDIX C

employee and he has long been denied jobs. This has led to a precarious financial situation, which, in turn has forced him to turn to federal and state level services. Since he is on the sex offender registry, however, he cannot access subsidized housing, and as a result, he has been homeless for long periods of time. From 2003 to 2011 Frank was homeless, moving from relative to relative and homeless shelter to homeless shelter. "Nothing was really happening for me," he said. He committed a robbery and burglary during this period because he was desperate and did not have money or housing (he also says that his addiction played a role in his criminal convictions). Frank also underwent chemotherapy while homeless. Because federal law bars him from subsidized housing, Frank battled prostate cancer while living in a shelter meant for short-term crisis housing for nearly two years.

Even finding a homeless shelter was difficult, he says. Frank reports that many co-ed shelters would not accept him as a client. He also says that if he had not developed personal relationships with the service providers who have assisted him, he would never have been able to access many of the service he utilizes.

Frank says that being on the sex offender registry has impacted his access to private and public social services. He says that it was difficult to find a rehabilitation center that would accept him because of his status. He only got into the rehab program that "saved his life" and has led to nearly five years of sobriety through a personal relationship with one of the staff members. He also attributes some of his difficulties obtaining SSI to his sex offender status. He says that the people who determined his eligibility were very interested in sex offense conviction, and he thinks that they were wary of him, even though "SSI is all about me being sick, not about crimes I did not commit in the past."

In 2005, Frank was arrested as a result of his sex offender status. He did not know that he was on the registry, so he did not tell the state of Connecticut that he was moving or register with the state of North Carolina. As a result, he was arrested in North Carolina for failing to register. Marshals escorted him back to Connecticut where he was jailed. He says that if he had not dismissed his initial public defender and met a new one, he would have accepted a plea deal and been incarcerated. He does not think he should have to let people know where he is going. He believes he shouldn't be on the registry in the first place, because it didn't exist when he was convicted.

Frank also believes that being on the sex offender registry has impacted his mental health and frame of mind. Frank receives SSI for his depression and he reports feeling miserable nearly every day. He feels like he is continually punished even though he already served prison time. *He also feels tricked. Had he known that he would be on the sex offender registry for the rest of his life, he never would have accepted the plea agreement.* He feels sad and angry. How is it, he asks, that "pedophiles and people that rape children sometimes only have to be on the registry for ten years? And I didn't do anything and there wasn't even a registry and I am on it forever."

"I would like to see my picture down" because "I feel treated with injustice," he says. He would like to see all people who have turned their lives around be given the chance to remove themselves from the registry. Frank said that if a "person was doing good, they should probably have a chance."



## APPENDIX C

### Ronald Little<sup>2</sup>

#### Introduction

Ronald, age 42, is on the lifetime sex offender registry for a third degree sexual assault conviction from 1991. Ronald lives with his wife and three children at his mother-in-law's home in Wallingford, Connecticut. He also has two daughters from a previous marriage. He says that although "he wasn't always an angel," he has changed his life since having children. Ronald attended culinary school, but he has been unable to find meaningful employment due to his sex offender status.

#### Sexual Offense

When Ronald was 18, he met a girl on the street and was invited into her house. As they were talking, her mother came home and told him to leave. He left. Later, the police came to talk to him about the situation and ended up arresting him for breach of peace. He had no problem talking to the police, as he didn't think he had done anything wrong. He remembers the police pondering how to charge him and looking through a reference book to figure out which offense would be closest to his situation.

Ronald was in jail for several months, and during that time his mother worked with the public defender on his behalf. When he finally went to court, the public defender advised him to plead guilty under the Alford Doctrine. He didn't want to take the plea—he wanted to make his case—but his mother and the public defender convinced him it was the best thing to do. He was released for time served with probation. *At the time, there was no sex offender registry. Ronald had no idea of the consequences he'd later face.*

In 1995, Ronald received a letter from the state police saying he had to come in and register as a sex offender. He was put on the lifetime registry and since then has had to register every three months.

#### Challenges Due to the Registry

Ronald has faced a number of obstacles due to his sex offender status. Most notably, he has completely abandoned a career in the food industry because of the stigma that his status carries. Before Ronald began having to register as a sex offender, he had begun to transform his life. In 1993, after he was briefly incarcerated for leaving the state, a violation of his probation, Ronald had a daughter. Following his daughter's birth, Ronald went to culinary school. He loved to cook and wanted to "create a better life" for his new family. After culinary school he obtained a job at Ruby Tuesday and soon became the kitchen manager.

Despite his culinary school education, Ronald has not been able to get a job as a chef and has had to take dishwashing jobs and under the table work. Ronald says that every time he applies for a job, he is passed over because of his status. The only way he successfully obtains employment is when he does not bring up his status at the interview. When employers find about his status, however, he suddenly finds himself getting fewer hours and shifts until the job

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<sup>2</sup> Ronald gave permission to have his name attached to his story, and he is willing to testify if the opportunity arises.

## APPENDIX C

becomes unsustainable. Being on the sex offender registry, he says, has "made it impossible to work in the food industry because there are females and people think I am a rapist or a pedophile." Ronald feels that he would be running his own restaurant right now if it weren't for this misconception. Instead, Ronald has abandoned his culinary dreams and obtained his CDL to drive trucks. While he assumed that employers in that field wouldn't be as concerned with employing a sex offender, his efforts to get a job as a truck driver have thus far been unsuccessful.

Ronald's inability to find a sustainable job has led to serious economic hardship, which has been exacerbated by the fact that the family cannot access subsidized housing due to his status. Ronald and his wife were homeless from 2001 to about 2003. They were in and out of motels and sometimes living out of their car. He couldn't even get a job at McDonald's during this time. He and his wife were on a Section 8 waiting list for 6 years and never got accepted. In 2007, Ronald, his wife and their oldest son were again homeless. They were routinely denied access to shelters because of Ronald's status. They were constantly forced to decide whether to separate, so that Ronald's wife and son could find shelter, or to stay together and live in the car.

Even today the family's living situation is challenging. Ronald, his wife, and their three young sons live in his mother-in-law's home. It is a "single family home made into a two family home" out of necessity. Ronald worries that as the boys get older, they will outgrow the upstairs floor. His youngest son sleeps with him and his wife but he "is getting bigger everyday" and soon the house will not be large enough.

Ronald's sex offender status has not only led to economic, housing, and family difficulties, but it has also led to legal problems. It was very difficult for him to register when he was living out of his car in 2007. Despite making effort to mail the registry paperwork back on time, he was charged with violating the registry requirements. He doesn't know how this happened; he and his wife were constantly checking the website to make sure that it said "current" next to his name. The judge didn't believe that he had sent in the paperwork, but she was sympathetic to his family situation and gave him 3 years of probation and 300 hours of community service.

This in itself led to problems. Despite his willingness to complete the community service requirement, he could not find an organization that would accept him. He spent two years of his probation trying to find an organization that would even allow a sex offender to volunteer. Eventually, he was able to volunteer at a shelter he and his family had lived in while they were homeless. Because this was his only community service option, he ended up working full time (at a low paying job) and working the night shift at the shelter.

Ronald feels that he could be doing good things with his life but that the registry keeps holding him back. The registry, he says, "has destroyed me." *"I wish someone would just ask me what happened,"* he said repeatedly. People see that he is on the registry and assume he has done something terrible. Instead of asking him to explain why he's on the registry, employers, landlords, and social organization see the sex offender status in background checks and never call him back. "No one is giving me the chance," he says. Ronald has given up on applying for any type of assistance.

## APPENDIX C

One of the worst parts of being on the registry for Ronald is how much it affects his family. He has 3 sons (11, 7, and 3) with his wife and two daughters (18 and 17) from a past relationship. He wants to be able to do normal things with his sons. It hurts him to watch his wife take the boys to Boy Scouts every Sunday. "That's something you do with your dad," he says.

Ronald feels that he is "set up for failure." Even the people at the state police, where he registers, tell him he has no business being on the lifetime registry. "I was young and dumb," he acknowledges, but having children changed his life. "I keep myself very low key," he says. Apart from his probation violation in 1993 and his failure to register in 2007, he has not committed a crime since his initial arrest.

The biggest change Ronald would like to see with the registry is a requirement that law enforcement keep registrants' records. His records are apparently gone, and no one looking at the registry can actually see what he's there for. He feels that he has no voice. He also wants to see people like him moved to a law-enforcement-only registry. He's fine with being on an internal registry, but he doesn't understand why the public has to know about his status after almost 20 years. "Think about people's families," he says.

## APPENDIX C

### Curtis Draughn<sup>3</sup>

#### Introduction

Curtis Draughn, age 59, lives alone in New Haven. He works as the superintendent for the landlord of the building where he lives. Aside from his superintendent position, he does not work and receives SSDI for a hernia condition. He struggles with depression and has long self-medicated with drugs and alcohol. Curtis has one daughter with whom he maintains a good relationship, and he loves his two grandchildren very much. He has struggled, however, to maintain positive relationships with other family members because of his sex offender status. *Curtis's life has been a "living hell" since 1997*, when he first had to register as a sex offender.

#### Sexual Offense

Curtis was arrested in 1987 when a sex worker accused him of sexual assault. He maintains that the sex was consensual; according to Curtis, the sex worker accused him of rape because he stole money from her during their encounter. He explains that he took the money because she had stolen it from him previously. In 1988, Curtis pled guilty to first degree sexual assault under the Alford Doctrine. The prosecution "scared the shit out of him," threatening him with 40 years if he didn't take the plea deal. *He still feels that he was coerced.* He tried to change his plea later on when he saw the investigative report, but he was told he could not. According to Curtis, the report, which he did not see until after he pled guilty, indicated that the witness was not very credible.

At the time Curtis pled guilty to first degree sexual assault, the sex offender registry did not exist. He adamantly maintains that he would have risked a trial if he had known about the consequences he would later face. He is sure that he would have been found not guilty.

#### Challenges Due to the Registry

Curtis reports that his life has been a "living hell" since he first had register as a sex offender in 1997. He was told at that time that he would only have to register for ten years. In 2007, however, he learned that he had to continue registering for life. Since 1997, Curtis has suffered from depression and has turned to drugs and alcohol to lessen the pain he feels from the social stigma. He says that his depression and substance abuse got worse after he was told he would need to register for life. He thinks about his status every day and feels that it has drastically changed the course of his life.

Curtis's sex offender status has made finding work very difficult. Prior to registering, Curtis had worked in construction. Since his community found out about his conviction, however, he has been forced to take under the table construction jobs that are low paying and inconsistent. In 2006, he committed common law robbery in North Carolina and served 9 months.

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<sup>3</sup> Curtis gave permission to have his name attached to his story.

## APPENDIX C

Curtis's sex offender status has also made it very difficult for him to find housing. He has been denied from subsidized housing twice (Berger Apartments and Bella Vista) because of his status. He was homeless and lived in the Columbus House shelter for one or two months in 2005. He was able to obtain his current apartment and superintendent job through a personal relationship with the landlord. Even so, Curtis reports that the rent is nearly all of his social security disability benefits.

The most difficult part of being on the sex offender status for Curtis is the stigma. Being considered a sex offender by his community is incredibly alienating. Curtis says that people automatically assume that he is a pedophile and shun him. At times, people have become physically violent towards him. "*It's scary out there,*" he says, for a man on the sex offender registry.

Curtis says that people think differently about him when they learn about his sex offender status. While he was attending inpatient rehab at Rushford Center in Middletown, he got on well with the others and was well liked by the staff. When he told his story, however, the dynamic changed. The other participants didn't want him around anymore, and he felt himself being isolated from the group.

In 2013, Curtis was physically assaulted by one of his neighbors. Someone in the neighborhood had circulated a rumor that sex offenders could not be out after midnight on Halloween. Curtis had not heard that rumor and went to a neighbor's apartment. His neighbor's son was furious that he was out and violently assaulted him. Curtis had to go to the hospital, where he had his jaw wired shut. When he tried to press charges, the police weren't very interested.

Curtis reports that *the harassment, judgment, and isolation he experiences are nearly as painful as the physical assault*. He is harassed on a daily basis; it is not uncommon for acquaintances to tell others, loudly and publicly, that he's a sex offender, a rapist, or even a pedophile. This stigma has made it hard for him to have normal relationships and interactions with people. He has to be very open with people he cares about; he makes sure he tells them about his past before someone else gets the chance.

Curtis wishes that he could remove his picture from the sex offender registry. He feels like he's just stuck; he can't do anything without his past coming up. He feels strongly that he's not like the people who actually belong on the registry. He has not committed a sex offense since his conviction in 1988, but he is still thought of as a pedophile and child rapist just because his picture is available for all to see. He is so conscious of the stigma that he has decided not to get a driver's license. He says he can't bear to have his status noted on the card.

One of Curtis's happiest moments came following the recent Temptations concert on the New Haven Green. He was walking home in his new white suit when a group of people smiled and waved at him from inside a bar. He went in to talk to them. They talked and danced, he said, and then he went home. He said it felt great to talk to people who didn't know about his status or have any judgments about him. He couldn't help smiling as he recounted this story.

## APPENDIX C

Joe<sup>4</sup>

### Introduction

Joe served 60 days in jail in 2006 for third degree possession of child pornography and is on the 10-year sex offender registry. He wanted to speak with us to offer the perspective of an older person on the registry who has struggled to find gainful employment. Joe's interview focused on his life since his conviction. He did not discuss his offense and did not state that he believed he should not be on the registry; he simply addressed the challenges he has faced because of it. He noted that before this experience, *he would not have hired someone who was on the sex offender registry*. Now he understands the consequences of that mindset.

### Challenges Due to the Registry

Before his conviction, Joe had worked at the same publishing company for 32 years. While he was allowed to return to work upon his release, he only lasted a year. When the company's owner, with whom he had worked for a long time, passed away, the new owner asked Joe to leave. Joe attributed this to several factors in addition to being on the sex offender registry (the new owner did not like that Joe was gay; Joe was the highest paid employee in a struggling company), but he thought that his status surely played a large part in the owner's request.

Joe estimates that he has applied to between 750 and 1,000 jobs since 2007. As an otherwise qualified, experienced applicant, he never imagined he'd be so unemployable. He described it as *riding a "merry-go-round"*—constantly being shuttled from one agency to the next—*from which he cannot escape*. He sat through mandatory training sessions geared toward helping ex-offenders find jobs, only to find out that these agencies did not help sex offenders because their job prospects were already so poor and because they wanted to spend their resources on the people they could actually help. He visited the division of the state employment office that specifically assists people on the registry, but the agencies to which he was referred no longer knew of companies willing to employ sex offenders.

Joe came painfully close to finding employment several times. He was actually hired at the Yale University Press, but he later received a call informing him that they would have to un-hire him due to the university's policy barring ex-offenders convicted of crimes involving firearms and sex offenders. Another time, during an interview with a nonprofit organization in Meriden, the interviewer asked why he was applying for a position for which he was so over-qualified. He told her about the registry, and she responded that she was fine with it and would just have to double check the company policies. He never heard from her again.

Currently, Joe works as an independent contractor doing random publishing jobs from home. His weekly hours vary unpredictably, and he never knows whether he will make enough money to pay his monthly rent. His financial situation is awful; he has had to take tens of thousands of dollars out of his IRA since 2007 to pay his bills.

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<sup>4</sup> Name changed for anonymity.

## APPENDIX C

Joe's housing situation has been a bit more stable, but he has still experienced some difficulty. Before he was released, he was told that he was not allowed to return to his apartment because it was too close to a school. For two months, Joe was homeless and living with his pastor. He eventually found a friend who was willing to rent him his second house in Branford, with the expectation that Joe would eventually buy the house from him. Joe has lived there since 2007, but he is no longer in any position to buy the house. He can barely keep up with his rent payments. He is worried that the friend will grow too impatient and sell the house; he does not know where he would go.

Joe has not had any real personal relationships since his conviction. He has exhausted every resource he knows of to help him find better employment, but he is afraid of asking his friends for help and risking their friendship by telling them about his past. He lives in constant fear that anyone he gets close to will find out about his status as a sex offender. He stepped down from his position as treasurer of his church at the suggestion of the rest of the board. One of his good friends from his past job completely stopped speaking to him when he returned to work immediately after his release from jail. Joe keeps his head down and goes out of his way to ensure that he stays far away from children or schools – he just does not want to cause any concern.

Joe feels strongly that the law should not treat everyone the same way when it comes to the sex offender registry. He described being in group therapy with rapists and violent offenders and feeling that he was so different from them. He noted that his specific offense had been a misdemeanor, not a felony, just two years before he was convicted..

Joe echoed the suggestion that people like him should be on a law-enforcement-only registry. He is *not sure what function the current registry system serves other than to alarm the public*. He would also like to see some sort of insurance offered to employers to dispel their fear of hiring people on the sex offender registry, but he acknowledges that most employers would not want to make themselves known as companies that hire sex offenders. He is so frustrated with getting up and doing the same thing every day, to no avail. He joked that insanity is doing the same thing and expecting a different result, but he admitted that he is doing exactly that. He has no other option.

## Appendix D

Cross Reference of Number of People on Sex Offender Registry with Homeless Shelter Addresses, as of Aug. 3, 2014

<u>City</u>	<u>Number</u>	<u>Address</u>	<u>Name of Shelter</u>
New Haven	34	645 Grand Ave.	Emergency Shelter Management
New Haven	20	586 Ella Grasso Blvd.	Columbus House
New Haven	1	130 Davenport Ave.	Columbus House Recovery House
New Haven	1	232 Cedar St.	Columbus House Overflow
New Haven	2	138 Davenport Ave.	Columbus House Harkness House
New Haven	1	48 Howe St.	Connection Inc. Recovery House
New Haven	3	830 Grand Ave.	Project More
New Haven	4	address given: homeless	
Total: 66 (of 455 people on Registry with New Haven Address, or 14.5%)			
Bridgeport	5	1088 Fairfield Ave.	Bridgeport Rescue Mission (Men's)
Bridgeport	1	80 Bunnell St.	Refocus Outreach Ministry
Bridgeport	1	Homeless	

Out of 323 people on Registry in Bridgeport



## Appendix E

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## Getting smarter about sex offenders



Lauren-Brooke Eisen

Mar 22, 2012

A new study by the Connecticut Office of Policy and Management released in February finds that sex offenders released from prison in Connecticut are unlikely to return to prison for another sex crime. The study followed 14,398 sentenced male offenders, as well as several sex offender subgroups, for a five-year period following their 2005 releases. In addition to tracking new arrests, new convictions, and new admissions to prison, the study distinguished between instances of general recidivism and those crimes that involved new sexual offenses.

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The study found that among 746 sex offenders who were released from prison in 2005, 27 were arrested on new sex charges within five years; out of the 27, 20 (2.7 percent) were convicted and 13 (1.7 percent) were sentenced to prison for those offenses. These low recidivism rates for sex crimes appear to contradict what much of the public thinks about sex offenders—that they have a high sexual re-offense rate.

The Connecticut report is significant because it tracks offenders with previous sex offense convictions and convicted offenders who were originally charged with sex offenses but who were ultimately convicted of other charges. Few studies have examined this population—people who may have committed sex crimes but avoided conviction on a sex-related charge in return for entering a guilty plea—and, in an era in which 19 out of every 20 felony convictions for all crimes are obtained by guilty plea, those charged with sex crimes are part of that group. Because sex crime registries impose onerous restrictions on sex offenders and in order to spare victims from the trauma of testifying and being cross-examined in court, prosecutors frequently agree to plea down sex crimes cases so that a defendant is convicted of a non-sex crime.

Although the Connecticut study reveals recidivism rates for sex crimes that are much lower than what many in the public have been led to expect or believe, it also concluded that some sex offenders pose a high risk for committing new sexual offenses. Sex offenders are not a monolithic group, their level of dangerousness, propensity to offend, and their preferred victims differ significantly. The study found that the Connecticut Department of Correction's Sex Treatment Score was a good predictor of sexual recidivism. Its scoring is based on conviction history, assessment of police reports, pre-sentence investigations, and other information that can provide a more complete and thorough understanding of the nature and context of an offender's crimes.

This report should serve as a valuable analysis for criminal justice agencies that seek to target programs and services to the group of sex offenders who pose the highest risk of returning to prison for a sex-specific crime.

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## Appendix F

### **Massachusetts Sex Offender Registry Information**

In Massachusetts adults that are convicted and juveniles that are adjudicated delinquent for certain crimes are classified as sex offenders. Sex offenders are given a risk level of one two or three, and are assigned to the twenty year or lifetime registry.

The Sex Offender Registry Board assigns sex offenders a sexual offender classification of level one, two, or three (high) based on the risk of repeat offense and the level of threat they pose to the public. These classifications determine the amount of information that will be released to the public.

The Sex Offender Registry Board is responsible for classifying sex offenders in Massachusetts. The board consists of six members who are appointed by the governor and the chairman who are appointed for terms of six years and who occupy the position full time. The board must include one person with experience and knowledge in the field of criminal justice who shall act as chairman; at least two licensed psychologists or psychiatrists with special expertise in the assessment and evaluation of sex offenders and who have knowledge of the forensic mental health system; at least one licensed psychologist or psychiatrist with special expertise in the assessment and evaluation of sex offenders, including juvenile sex offenders and who has knowledge of the forensic mental health system; at least two persons who have at least five years of training and experience in probation, parole or corrections; and at least one person who has expertise or experience with victims of sexual abuse.

The Sex Offender Registry Board considers a number of factors when determining a person's sex offender classification. Sex offenders are entitled to submit evidence during the determination process. Following the determination of the Sex Offender Registry Board a person may accept the preliminary classification, and then the classification becomes final. If the sex offender rejects the preliminary classification, he/she has the right to a hearing before a Hearing Examiner. In order to obtain a hearing, a person must request a hearing in writing within 20 days of receiving the preliminary classification notice.

In the hearing, the Hearing Examiner considers all of the evidence and makes an independent decision about the person's sex offender classification. During the hearing a person is entitled to legal counsel. He/she are entitled to see all of the evidence and may call witnesses and testify on your own behalf and to appeal the decisions. The hearing is not open to the public or to victims.

The Sex Offender Registry Board assigns a level one classification when risk of reoffense is low and the degree of dangerousness posed to the public is not such that a public safety interest is served by public availability. Level one sex offenders are not included on the public sex offender registry. The police and the Board are not allowed to publicly disseminate information about level one sex offenders to the public.

The Sex Offender Registry Board assigns a level two classification when the risk of reoffense is moderate and the degree of dangerousness posed to the public is such that a public safety interest is served by public availability of registration information. Level two sex offenders' information

## Appendix F

will be publicly accessible through the local Police Department and through the Sex Offender Registry Board.

The Sex Offender Registry Board assigns a level three classification when the risk of reoffense is high and the degree of dangerousness posed to the public is such that a substantial public safety interest is served by active dissemination. The public shall have access to the information about a level 3 offender through the Local Police Departments and through the Sex Offender Registry Board.

The type of crime a sex offender committed determines the length of time that a sex offender will remain on the sex offender registry. Typically, if a sex offender has committed one nonviolent offense, or is a juvenile, he/she must register for 20 years from the date of his/her conviction or release from custody or supervision, whichever occurs later. If a person has been convicted of certain sexual offenses against children, if the person has been convicted of a sexually violent offense, and/or the person has been convicted of another sex crime with mandatory lifetime registration, he/she must register for life.

In Massachusetts, a person on the sex registry may make an application to the Sex Offender Registry board to be removed from the sex offender registry. The person must demonstrate by clear and convincing evidence, that he or she has not committed a sex offense within ten years following conviction, adjudication or release from all custody or supervision, whichever is later, and is not likely to pose a danger to the safety of others. Some people who have committed certain violent sexual offenses and certain sexual offense against children may not apply to remove their names from the registry at any time.

Conversely, the board, on its own initiative or upon written request by a police department or district attorney, may seek to reclassify any sex offender. The board is permitted to reclassify if new, relevant information is received. The hearing must be conducted in reasonable time, and the sex offender must receive prompt notice of the hearing.

All sex offenders, regardless of classification, living in homeless shelters must register every 30 days.

### **Minnesota Sex Offender Registry Information**

In Minnesota adults that are convicted and juveniles that are adjudicated delinquent for certain crimes are classified as sex offenders. Sex offenders are given a risk level of I, II, or III, and assigned to the ten-year or the lifetime registry.

The end-of-confinement review committee is responsible for determining a sex offender's risk level, which, in turn, determines the level of community notification that will occur. There is an end-of-confinement review committee at every state prison and treatment facility where sex offenders are incarcerated or confined.

## Appendix F

The Commissioner of Corrections or the Commissioner of Human Services appoints the members of each committee. The committee consists of the chief executive officer or head of the correction facility or treatment center where the sex offender is confined or that person's designee, a law enforcement officer, a treatment professional who is trained in the assessment of predatory offenders, a caseworker experience in supervising predatory offenders, and a victim services professional. Committee members serve two-year terms.

In most instances the end-of-confinement committee must convene ninety days before a sex offender is due to be released. The offender must receive notice of the assessment and has the right to appear and present information. The law enforcement agency responsible for the charge that resulted in confinement must also be notified. The law enforcement agency may provide written material relevant to the offender's risk level to the committee.

The committee makes risk level assessments on a case-by-case basis using a risk assessment scale. This scale is used to weight the various risk factors that determine risk level. The committee has access to various relevant information including medical data, court services data, corrections data, and criminal history data. When determining risk level the committee considers the seriousness of the offense should the offender reoffend, the offender's prior offense history, the offender's characteristics, the availability of community support, whether the offender has indicated or there is credible evidence that the offender will reoffend if released, and whether the offender demonstrates a physical condition that minimizes risk of reoffense.

Based on this holistic assessment the committee assigns an offender a risk level of I, II, or III. Level I offenders have a risk assessment score that indicates a low risk of reoffense, Level II offenders have a risk assessment score that indicates a moderate risk of reoffense, and Level III offenders have a risk assessment score that indicates a high risk of reoffense.

Accordingly, risk level determines notification level. Level I offenders are subject to the least amount of notification requirements. Law enforcement agencies may maintain information about the sex offender, but this information may not be made available to the general public. Law enforcement may disclose information about the offender to victims or witnesses of an offense. And the agency must disclose information to adult members of the offender's immediate household.

Level II offenders are subject to the same notification requirements as Level I offenders. Additionally, law enforcement must disclose information to agencies or groups the offender is likely to encounter. Law enforcement may also disclose information to individuals that the agency believes could be victimized based on the offender's past offense preferences.

Level III offenders are subject to the same notification regulations as Level I and II offenders. These offenders are the only offenders put on an online, public registry. Law enforcement must disclose information to members of the community whom the offender is likely to encounter and the parents of children who are using the same facility as a sex offender. When a Level III offender moves to a new community law enforcement typically holds a meeting about the offender.

## Appendix F

Risk levels may be modified in several circumstances. First, risk level may be modified prior to an offender's release. If additional information about the offender becomes available the law enforcement agency where the offender will reside or the offender's correction officer may request a reevaluation. Offenders themselves may also seek review within 14 days of receiving notice of committee's risk assessment. The offender must show, by a preponderance of the evidence, that the risk assessment was erroneous. The attorney general or a designee must defend the committee's decision.

Risk level may also be modified following release. An offender may ask the committee to reassess its decision three years after the initial assessment. The offender may seek reassessment every two years following subsequent denials. The offender must demonstrate that he or she does not pose the same risk to the community that he or she did at the time of their initial assessment. The offender must also demonstrate full compliance with supervised release conditions, completion of required post-release programming, and full compliance with predatory offense requirements. The request will not be granted if the offender has been convicted of any felony, gross misdemeanor, or misdemeanor offenses following his or her classification.

Sex offenders are also assigned to the ten-year or lifetime registry. There are a number of factors used to determine whether or not an individual will be assigned to the lifetime registry. These factors include the type of crime (i.e. aggravated offenses and offenses that require civil commitment), and past convictions for sexual offenses.

### **Vermont Sex Offender Registry Information**

In Vermont people who are convicted of certain crimes are classified as sex offenders. Sex offenders are designated high-risk and/or sexually violent predator, or regular sex offender. Sex offenders are also assigned to the ten-year or lifetime registry.

The Department of Corrections evaluates a sex offender to determine whether the offender is "high-risk." The purpose of this evaluation is to determine who should be subject to increased public access to his or her status as a sex offender and related information.

The sex offender must receive notice of the evaluation and must have the opportunity to appear at the hearing. Additionally, if an offender receives a high-risk designation he or she has the right to appeal de novo to the superior court.

The Department of Correction also evaluates a sex offender to determine whether the offender is a sexually violent predator. This designation also increases the amount of information about the offender that is publicly accessible. A sexually violent predator is a person who is convicted of a sexually violent offense AND has been determined to suffer from a mental abnormality or personality disorder that makes it more likely that he/she will engage in predatory violent offenses.

In addition to other resources, the Department of Corrections utilizes the Vermont Assessment of Sex Offender Risk (VASOR) to determine whether an offender is high risk. VASOR is a risk

## Appendix F

assessment scale for adult male sex offenders eighteen years old or older. VASOR is composed of two scales, a reoffense risk scale and a violence scale. The interaction of these variables, reoffense risk and violence are considered important factors for assessing an individual's overall risk. VASOR does not provide a comprehensive survey of all factors relevant to sexual offender so it tends to be used a complimentary resource. VASOR is now utilized in a number a states as a risk assessment tool.

A number of factors determine whether or not a sex offender is included on the online sex offender registry. In Vermont sex offenders convicted of certain crimes and sex offenders who have one prior conviction of certain crimes, sex offenders who have been designated as sexual predators, sex offenders who have not complied with sex offender treatment recommended by the Department of Corrections or who are ineligible for sex offender treatment, sex offenders who have been designated high risk, and some offenders who were on the state registry in another state (i.e. people convicted of a felony of a misdemeanor punishable by more than six months of jail time). Sex offenders who have failed to comply with sex offender registration requirements and for those whose arrest there is an outstanding warrant are added to the online registry and will remain on the online registry while the warrant is outstanding.

A sex offender are required to register until ten years have elapsed since the person was released from prison or discharged from parole, supervised release, or probation whichever is later or for his or her entire life. There are a number of factors that determine how long a person must register for. A person is required to register for life if he or she has been convicted for certain prior offenses, if he or she is convicted of sexual assault or aggravated assault, if he or she has been determined to be a sexually violent predator, if she or he has been designated a noncompliant high-risk sex offender.

## APPENDIX G

### Enhancing Public Safety Through Sex Offender Registry Reform

#### Proposed Legislation

#### Give Sentencing Judge Discretion Over Putting Person on the Registry, and Length of Time on Registry

- Revise the penalty component of the sex registry statutes to provide:
  - Low risk offenders not placed on publicly available sex offender registry
  - Judge has discretion for medium and high risk offenders over length of time on registry:
    - Non-violent sexual offense, 0-10 years;
    - Sexual offense against victim who is a minor, 0-10 years;
    - Felony for a sexual purpose, 0–10 years
    - Violent sexual offense, 20 years – lifetime;
- The individualized risk assessment performed prior to sentencing shall be made available to the sentencing Judge. (currently such assessment is done, and portions are included in pre-sentence investigation report)
- Judge can take into account mitigating factors, such as whether this is a first time sexual offense conviction, in determining years on the registry.

#### Individualized Sex Offender Risk Assessment Conducted Prior to Release from Incarceration or Criminal Justice Supervision Should Inform Placement on Registry:

- Individualized sex offender risk assessment, using the best available static and dynamic assessment tools, should be done for all persons convicted of sexual offense, regardless of whether they are being released at end of sentence without supervision, or are being released to parole or probation. (This expands the current Department of Correction's current protocol, where people released at end of sentence with no supervision are not subject to risk assessment).
- Risk assessment to determine three tiers of risk of re-offense as a sex offender:
  - Low risk, not placed on public/internet registry;
  - Medium risk, discretion to consider mitigating and aggravating factors to determine placement on public/internet registry;
  - High risk, placed on public/internet registry.
  - (Note: all information about convictions is still available to the police, and to the public on the judicial website, even if people are not listed on the sex offender registry.)
- Due process hearings available to challenge classification of low, medium or high risk.

Petition Process Available to Review Placement on Registry, Encouraging Rehabilitation and Supporting a "Second Chance Society."

- Persons on the registry can petition for removal from the registry 5 years after release, and every 3 years thereafter:
  - If they have no further convictions of sex related offenses, or other violent offenses.
  - New risk assessment to be conducted as part of the petition process; must be able to show that not likely to pose a danger to the safety of others.
  - Petition either to Superior Court; or could be a new Registry Review Board created for this purpose, made up of experts in the relevant fields, or to the existing Sentence Review Board.
  - Ability to petition for review encourages people to seek treatment and rehabilitation and have a second chance if they can show they have changed their lives.